

REMARKS

By this Amendment, Applicants have cancelled claims 1-13, 19, 24, 25, and 27-39 without prejudice or disclaimer, amended claims 14, 15, 17, 20, 26, 40, 48, 51, 62, and 70, and added new claims 73-84, such that claims 14-18, 20-23, 26, and 40-84 are pending in this application.

In the Office Action dated March 29, 2004, the Examiner rejected claims 1-5, 8-10, 14-18, 21-23, 27-31, and 34-36 under 35 U.S.C. § 102(e) as unpatentable over U.S. Patent No. 6,401,075 ("*Mason*"). Applicants respectfully traverse this rejection insofar as the Examiner deems it applicable to the amended claims.

Independent claim 14 is patentably distinguishable from *Mason*. Claim 14 recites a system for performing dynamic Web-based marketing. The system comprises a Web server for providing a Web page over a network to a plurality of client nodes. A client side program, executed at each client node, collects user response data associated with the content in the Web page provided to each client node, and sends the collected user response data to a first server side data store via the Web server as event data. An analytical program, executing in the Web server, analyzes the event data to determine user in-view characteristic data reflecting whether the content was viewable or partially viewable by the respective user. The analytical program also produces result data in response to the analysis of the event data, where the result data is based on at least the analysis of the user in-view characteristic data, and modifies the content of the Web page based on the result data.

In contrast, *Mason* discloses a system allowing a Web page server to monitor the number of "hits" or "click-throughs" associated with an advertisement link displayed at a

URL. (Col. 4, lines 20-37.) For instance, a “hit” of the advertisement link occurs when a user simply causes the URL to be displayed. (Col. 4, lines 20-28.) A “click-through” occurs when a user actually clicks on the advertisement to cause the advertiser’s website to then be displayed. (Col. 4, lines 29-37.) From the monitored number of hits or click-throughs, the *Mason* system can determine the success of a particular advertisement.

Mason does not disclose or suggest, however, a “client side program, executed at each client node, for collecting user response data associated with the content in the Web page provided to each client node, and sending the collected user response data to a first server side data store via the Web server as event data,” as recited in claim 14. *Mason* simply describes that a central processor of the Web page provider counts hits and click-throughs. Nowhere does the reference teach any client-side program for “collecting user response data associated with the content in the Web page” or sending such information to a Web server from the client.

Nor does *Mason* disclose or suggest an “analytical program, executing in the Web server, for analyzing the event data to determine user in-view characteristic data reflecting whether the content was viewable or partially viewable by the respective user,” as also recited in claim 14. As explained above, *Mason* discloses simply describes monitoring hits and click-throughs. It does not describe determining “user in-view characteristic data reflecting whether the content was viewable or partially viewable.”

For each of these reasons, Applicants respectfully submit that *Mason* does not disclose each element of claim 14, and, therefore, request that the Examiner withdraw

the §102 rejection based on *Mason*. Because claims 15-18 and 20-23 depend from claim 14, claims 15-18 and 20-23 are patentable for at least this reason as well.

The Examiner also rejected claims 40-47, 50-58, 61-69, and 72 under 35 U.S.C. § 102(e) as unpatentable over U.S. Patent No. 6,317,782 ("*Himmel*"). Applicants respectfully traverse this rejection as well insofar as the Examiner deems it applicable to the amended claims.

Independent claims 40, 51, and 62 are patentably distinguishable from *Himmel*. For example, claim 40 recites a method for performing dynamic Web-based in-view monitoring. As recited in the claim, the method appends a client side routine to a Web page provided by a Web server. In response to the Web page being displayed to a user, the respective client node of the user initiates the client side routine to perform: detecting in-view user activities associated with in-view response data reflecting whether or not the content data was viewable or partially viewable to each respective user; collecting data reflecting the in-view user activities; detecting a client side trigger event; and sending the collected data to the Web server in response to the detected client side trigger event. The method then analyzes the collected data to determine user in-view characteristic data reflecting whether the content was viewable or partially viewable by the respective user, and modifies the content of the Web page based on the user in-view characteristic data.

While *Himmel* describes detecting a user's viewing of a Web page, the reference does not disclose determining user in-view characteristic data and "modifying the content of the Web page based on the user in-view characteristic data," as recited in claims 40, 51, and 62. *Himmel* only describes transmitting cookies to a server 188 (col.

9, lines 43-49) and potentially using the cookie information to vary rates to be charged to advertisers (col. 3, lines 47-53). Nothing in *Himmel*, however, discloses or suggests modifying or how to modify content of a Web page based on any type of user in-view characteristic data reflecting whether the content was viewable or partially viewable by a user.

The recited feature of “modifying the content” recited in claims 14, 40, 51, and 62 is further defined with respect to newly added dependent claims 73-84. These new claims are supported, for example, at the following portions of the specification: page 15, lines 19-26; page 17, line 1 – page 18, line 5; page 20, line 27 – page 21, line 3; page 32, line 10 – page 34, line 11; and page 35, lines 8-26. The features of claims 73-84 are in no way disclosed or suggested by *Himmel*.

The Examiner also rejected claims 6, 7, 11-13, 19, 20, 24-26, 32, 33, and 37-39 under 35 U.S.C. § 103(a) as being unpatentable over *Mason* in view of *Himmel*, and rejected claims 48, 49, 59, 60, 70, and 71 under § 103(a) as being unpatentable over *Himmel* in view of *Mason*. Applicants respectfully traverse these rejections. However, since each of these claims ultimately depends from either independent claim 14, 40, 51, or 62 (with the exception of claims 6, 7, 11-13, 32, 33, and 37-39, which are now cancelled), and because neither *Himmel* or *Mason*, taken alone or in combination, disclose or suggest determining user in-view characteristic data and “modifying the content of the Web page based on the user in-view characteristic data,” as recited in claims 14, 40, 51, and 62, these dependent claims are also allowable for the reasons above.

In view of the foregoing remarks, Applicants respectfully request reconsideration and reexamination of this application and the timely allowance of pending claims 14-18, 20-23, 26, and 40-84.

Please grant any extensions of time required to enter this response and charge any additional required fees to our deposit account 06-0916.

Respectfully submitted,

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